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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,018	09/22/2003	Kacy D. Denton	00321000779	9556

23418 7590 01/12/2005

VEDDER PRICE KAUFMAN & KAMMHOLZ  
222 N. LASALLE STREET  
CHICAGO, IL 60601

EXAMINER

BELLINGER, JASON R

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

10/673,018

## Applicant(s)

DENTON, KACY D.

## Examiner

Jason R Bellinger

## Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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***Response to Amendment***

1. The indicated allowability of claims 1-10 is withdrawn in view of the newly discovered reference(s) to Slesinski et al. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 4 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 is indefinite due to the fact that it is unclear what opening is being referred to by the phrase "an opening" in line 4. The hubcap has an opening, while the vent plug also has a plurality of openings, thus making it unclear which opening is being referred to in line 4 of claim 4.

Claim 10 is indefinite due to the fact that it is unclear what element of the invention the shroud has a smaller diameter than, as set forth in line 15.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slesinski et al in view of Denton. As best shown in Figures 1 and 8, Slesinski et al shows a hubcap vent plug 22 that is resistant to penetration by water under high pressure, wherein the plug 22 includes an axially outer end face portion and sidewall portions adapted to mate in fluid-tight relation with an opening in an associated hubcap 20. A small diameter opening 46 terminates in a thin web of material from which the plug 22 is made. A valve cover 50 with an inner surface that is substantially parallel to the end face portion of the plug 22 and spaced closely axially apart from the end face portion defines at least one transverse opening 72 between the axially outer end face and the valve cover 50.

The vent plug 22 includes an enlarged diameter opening that communicates with the interior of the opening in the associated hubcap 20 at one end and with the small diameter opening 46 at the other end. A stepped passage has a first enlarged diameter opening (beginning at the axially outer end of the enlarged diameter opening that communicates with the interior of the opening in the associated hubcap 20) and a second reduced diameter opening (the cylindrical passage) that communicates with the interior of the opening in the associated hubcap 20 at one end and with the small diameter opening 46 at the other end.

The vent plug 22 includes a radially outer surface portion having axially inner and outer tapered surfaces with a reduced diameter portion therebetween, wherein the tapered surface is adapted to mate with the opening of the hubcap 20 in fluid-tight

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relation. The vent plug 22 is made from an elastomer, such as rubber. While Slesinski et al does not specify whether the plug 22 is made from natural, synthetic, or thermoplastic rubber, one of ordinary skill in the art at the time of the invention would have found it obvious to use any type of rubber material dependent upon availability and cost.

Transverse opening 72 extends into a pair of transverse openings (78, 80) in the vent plug assembly (20, 22).

6. Slesinski et al does not specify that the valve be formed as a slit in a thin web of material that is normally closed, which allows pressure and vacuum to vent through the valve and to resist penetration of pressurized water through the valve.

Denton teaches the use of a hubcap vent plug 16 having a normally closed valve 84 formed as a slit in a thin web of material, which allows pressure and vacuum to vent through the valve and to resist penetration of pressurized water through the valve 84. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the valve of Slesinski et al as a normally closed slit in the thin web of material as a substitution of equivalent valve structures, to prevent contaminants from entering the valve.

#### ***Allowable Subject Matter***

7. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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8. Claim 10 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason R Bellinger  
Examiner  
Art Unit 3617

  
jrb

  
S. JOSEPH MORANO  
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